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Attorneys for Defendant
G & P ENTERPRISES, LLC, d/b/a
ALLIED TRUSTEE SERVICES

IN THE UNITED STATES BANKRUPTCY COURT
IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:

DANIEL MAJOR EDSTROM,

Debtor and Debtor in Possession.

DANIEL MAJOR EDSTROM,

Plaintiff,

vs.

AUBURN LAKE TRAILS PROPERTY
OWNERS ASSOCIATION, a California
non-profit mutual benefit corporation,
et al.,

Defendants.

Case No.: 12-29353-B-11
Adv. No.: 13-02132-B

Docket Control No. LDH-2

Chapter 11

Assigned to: Hon. Thomas C. Holman,
U. S. Bankruptcy Judge

**NOTICE OF MOTION TO DISMISS
FIRST AMENDED COMPLAINT FOR
FAILURE TO STATE A CLAIM;
MEMORANDUM OF POINTS AND
AUTHORITIES; REQUEST FOR
JUDICIAL NOTICE; PROPOSED
ORDER**

[FRCP §§ 8(A) & (D); 9(B); 12(B)(6)]

Date: October 29, 2013
Time: 9:32 a.m.
Ctmm: 32
Dept: B

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 29, 2013, at 9:32 a.m., or as soon thereafter as the matter may be heard, in Courtroom 32, Dept. B of the above-entitled Court, located at 501 "I" Street, 6th Floor, Sacramento, California, Defendant G & P ENTERPRISES, LLC, d/b/a ALLIED TRUSTEE SERVICES (hereinafter "G & P" or "Defendant") will move the Court pursuant to Fed. Rule of Civ. Proc. 12(b)(6) for an order dismissing Plaintiff's First Amended Complaint filed herein on August 25, 2013 [Docket No. 58] ("Complaint"), and all claims against Defendant G & P contained therein *with prejudice*.

The grounds for this motion are (1) that Plaintiff has failed to state a claim against G & P upon which relief can be granted [Fed. Rule Civ. Proc. 12(b)(6)]; (2) that the Complaint fails to present a "short and plain statement" of the Plaintiff's claims [Fed. Rule Civ. Proc. 8(a)] and is not "simple, concise and direct" [Fed. Rule Civ. Proc. 8(d)]; Plaintiff's fraud claims are not pled "with particularity" [Fed. Rule Civ. Proc. 9(b)]; and (4) that the defects in the Complaint are such that the defects are incurable and the Complaint is incapable of amendment, and that the Plaintiff can prove no set of facts in support of their claims which would entitle him to relief; and that therefore the Complaint, and the claims against Defendant therein contained, should be dismissed *with prejudice*.

The motion will be based on this notice, the memorandum of points and authorities, the Court's files and records herein and such other and further matters as may be presented to the Court prior to or at hearing on this matter.

DATED: September 5, 2013

LAW OFFICES OF GLENN H. WECHSLER

By: /s/Lawrence D. Harris
LAWRENCE D. HARRIS

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